

HIGH-SPEED RAIL AUTHORITY

MONTHLY MEETING

TRANSCRIPT OF PROCEEDINGS

CALIFORNIA STATE CAPITOL

ROOM 4203

SACRAMENTO, CALIFORNIA

WEDNESDAY, NOVEMBER 14, 2012

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## A P P E A R A N C E S

### BOARD MEMBERS

Mr. Dan Richard, Chairperson

Mr. Tom Richards, Vice Chair

Ms. Lynn Schenk, Vice Chair

Mr. Jim Hartnett

Mr. Russel Burns

Mr. Thomas Umberg

### STAFF

Mr. Thomas Fellenz, Esq., Legal Counsel

Mr. Mark McLoughlin, Interim Deputy Director

Mr. Jon Tapping, Risk Manager

### ALSO PRESENT

Mr. Ross Browning

Mr. Mike Burneck

Ms. Amanda Carvajal, Merced County Farm Bureau

Mr. Dan Dolan, Stewart Title SBE

Ms. LeeAnn Eagon, Fresno Works/Fresno EDC

Mr. Justin Fredrickson, California Farm Bureau Federation

Mr. Paul Guerrero, La Raza

Mr. William Kerby, Rail Passenger Association of CA & Nev

Mr. Blake Konczal, Executive Director, Fresno Regional  
Workforce Investment Board

A P P E A R A N C E S (CONTINUED)

ALSO PRESENT

Ms. Diana LaCome, APAC

Mr. Christopher Meyer

Mr. Baldwin Moy, California Rural Legal Assistance

Mr. Mark Nechodom, Department of Conservation

Mr. Frank Oliveira, Citizens for High Speed Rail  
Accountability

Supervisor Henry Perea, Fresno County

Mr. Ken Price

Mr. Chuck Riojas

Mr. Davis Schwegel, US High Speed Rail Association

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PROCEEDINGS

CHAIRPERSON RICHARD: Good morning, everybody. Welcome to this meeting of the California High Speed Rail Authority.

We'll be in order. And will the Secretary please call the roll?

BOARD CLERK REED: Vice Chair Schenk?

Vice Chair Richards?

VICE CHAIRPERSON RICHARDS: Here.

BOARD CLERK REED: Mr. Umberg?

BOARD MEMBER UMBERG: Here.

BOARD CLERK REED: Mr. Hartnett?

BOARD MEMBER HARTNETT: Here.

BOARD CLERK REED: Mr. Balgenorth?

My apologies.

Mr. Rossi?

Chairman Richard?

CHAIRPERSON RICHARD: Here.

We have a quorum.

Please join me, and we'll ask Mr. Umberg to lead us in the Pledge of Allegiance to our flag.

(Thereupon the Pledge of Allegiance was Recited in unison.)

CHAIRPERSON RICHARD: Thank you.

First item is approval of the minutes.

I'm sorry. Excuse me. Thank you, Mr. Morales.

We'll begin with public comment. And let me find the speaker cards that are right in front of me.

As we always do, we will take the speakers in order that they were received, except that we will start with our elected officials. And so first up is Supervisor Henry Perea. Welcome back again, Supervisor. We're always delighted to see you.

MR. PEREA: Thank you, Mr. Chairman. It's a pleasure to be here with you today, too.

Just three quick things.

First, we're obviously very happy high speed rail is moving forward in Fresno County. A lot of activity. A lot of public support. A lot of public interaction right now making sure people are on board and staying focused on getting this job done.

The last few weeks I attended the Workforce Investment Board. I was proud to be appointed by the Governor to that. Under Mr. Rossi's leadership, we'll get a lot of things done. And I think high speed rail will be one of the initiatives that we'll be focused on.

And also here to support our national target hiring initiative that you'll be hearing from our Workforce Investment people shortly to give you an update of what's going on.

Just want to say again thank you for all your hard work. We're looking forward to hopefully you looking at the

maintenance facility next year and making a decision on that.

As always, Fresno County is here to support you. Thank you.

CHAIRPERSON RICHARD: Thank you, Supervisor. We appreciate your continued support.

Next up, Diana LaCombe from APAC, and she'll be followed by Frank Oliveira.

MS. LA COMBE: Good morning, Chairman Richard and Board members.

I'd like to talk today a little bit about the 30 percent goal. I'm concerned that the prime contractors get as much assistance in terms of making the goal. And I have handed out to you some information from the Port of Oakland regarding their Small Business Enterprise Program. And this is not for me to go through today, but for you to look at.

Especially when you're looking at the project labor agreement, there is a small business exclusion for small businesses in their PLA. I think this really should be looked at closely.

The other is the Caltrans Minor B Program, which includes projects under 250,000. That might be something that this Authority could look at as well, as well as directors' orders within Caltrans.

And then lastly, the Federal 49 CFR, I've discussed that with you many times. That was the final rule of 2011. And



that allows for set-asides for small businesses. And I think that we should really take a close look at that, especially on the utility relocation work. We had recommended way back that the utility relocation be removed from the right-of-way and just set up as a separate project and not be handed to the prime contractor that's awarded the design/build contract. But apparently, that is what's going to happen. But I would just like to recommend that utility and relocation be looked at as a set-aside, because the prime contractor can meet a lot of its goals utilizing the set-aside.

And one other thing, I was reading your resolution with the Department of Conservation. And what's missing is the 30 percent small business goal in there. Thank you.

CHAIRPERSON RICHARD: If you need to finish your sentence, go ahead.

MS. LA COMBE: No. That's okay. That was it. Just want to you take a look at that, because we had asked that all State agencies that you have an agreement with, that the 30 percent goal goes along with it. And we're talking about \$20 million here with the Department of Conservation.

CHAIRPERSON RICHARD: Thank you, Ms. LaCombe.

Next is Frank Oliveira, followed by LeeAnn Eagon.

Mr. Oliveira, I understand you have a PowerPoint or a presentation you want to include as part of your remarks.

MR. OLIVEIRA: I do.

CHAIRPERSON RICHARD: Go ahead.

MR. OLIVEIRA: Again, my name is Frank Oliveira. I'm with the Citizens for High Speed Rail Accountability.

You just closed your environmental review process in the Fresno to Bakersfield section. All through that review period, we requested documents from the Authority, and we never received those documents.

I have a PowerPoint here, which is going to start. It will run by itself. Quite simply, we were asking for the technical reports that are referenced over and over and over at least 150 times in your document.

Your document, your environmental impact review document, says that this information will be available to the public for review in printed copy. Let's see if that's going to work.

At any rate, what you're seeing is all the places where this document should be. Somehow, this has gotten off kilter. But at any rate, everything that you see circled are references in your document -- not my document -- your document that says the Authority will do certain things to make certain things available to the public. Your document says that the technical reports are important for us to review and draw our conclusions to make comments.

It doesn't -- your document says that these will be available in printed format for the public to review. When we

discovered they were not, we asked numerous times. We asked this Board twice. Mr. Morales was available when we had hearings down in the Central Valley. We requested this information at that time also.

Many people that I'm looking at right now -- actually, everybody I'm looking at right now, we requested these documents so we could participate in the environmental review process. And we never received them. We were told the digital copies were enough, and that's not what your document says is going to happen. So we went through this preview process, which is closed now without these documents to review in hard copy and print, which simply meant that to participate in the environmental impact process, review process, you had to be computer savvy. You had to have internet -- high speed internet capabilities.

The technical reports with not released to the libraries on CD format either. So people could not participate in the process. It's just a check-off-the-box thing, which is unacceptable.

One more issue. There is a question about whether pursuant to NEPA these documents, the technical reports, would be incorporated by reference. In the handout that I've provided you of the slide show that for whatever reason didn't flow right, I list what NEPA says will happen and what in corporation by reference is. And it appears clear to us that, regardless of what your document says was going to happen by law, those

technical reports should have been available to the public in a format that they could have used. So all of that said, I'm asking quite simply reopen the review period. Release the documents so the public can participate, or not. I mean, are you above the law? Are you above your own direction or your own instructions to us? Does anything in that document matter?

If the technical reports are not important, will you eliminate the references to the technical reports in your decision-making pertaining to this project? I don't think you will. So they should be released to the public so we can comment. Thank you very much.

CHAIRPERSON RICHARD: Thank you, Mr. Oliveira.

I know this has been an issue of some contention, so I want to make sure that the material that you brought forth this morning gets put into our record in addition to your electronic version, if you have a hard copy of that that you can submit.

MR. OLIVEIRA: I've provided hard copies to everybody on the dias.

CHAIRPERSON RICHARD: That's fine.

MR. OLIVEIRA: It's not a bone of contention. It's just a matter of due process. And we have not received our due process. And we have requested patiently -- perhaps aggressively at times -- simple consideration under the law so that we can participate. And we have been denied that because no one has made a decision. Nobody has come out and said no, you're not

entitled to what is referenced in your documents that we are supposed to have.

CHAIRPERSON RICHARD: Right. I understand. Okay. And I'm sorry. I do have the hard copy now. I just wanted to make sure that it was part of the record.

MR. OLIVEIRA: Thank you.

CHAIRPERSON RICHARD: Thank you, Mr. Oliveira.

LeeAnn Eagon, followed by William Kerby.

MS. EAGON: Good morning, Chairman Richard, members of the Board, and Mr. Morales.

First, I wanted to address the small business certification. Just let you know, in Fresno, we have four events coming up before Christmas. Two are train the trainers so that we're training our local folks to be able to train businesses on certification. And that's coming up in the next week. And then we have three certification trainings for our local small businesses. Those will be on November 30th, December 1st, and December 15th. We did one on a Saturday so extra small businesses that can't leave on a weekday can come on a Saturday and get certified. So we are working on that. We're planning on more in January and February. We certainly want to get all of our small businesses certified so they can work on the project if they decide they want to.

The other thing I wanted to say is I wanted to thank Mr. Morales for assisting us in our trip to Paris and getting us

in to see -- he didn't go with us. He didn't go with us.

CHAIRPERSON RICHARD: I didn't care about that part. I was wondering about the rest of us.

MS. EAGON: We were able to meet with the SNCF and also the International Union of Railways there in Paris. And I have to say, I'm the biggest high speed rail nerd there ever was. Because I went to go tour the heavy maintenance facility, and it was everything I ever dreamed of. Sad I'm dreaming of the heavy maintenance facility, I know.

But we went on the tour. It was 5.5 acres under roof. It had an industrial park all around it. It had high speed rail university right next to us. Supervisor Perea and I have been talking about exactly that for the last three years on what we wanted it to look like. So I was able to bring back pictures and show them what it is that we had envisioned is actually really out there. So we were very excited.

And thank you so much, Mr. Morales, for helping us in getting that tour set.

I also wanted to really quickly support our national targeted hiring program. And I know you'll be hearing about that soon. So thank you.

Also, I got this and I don't know I'm sure you all have -- they sent me back with about 20 pounds of information on how to do high speed rail from start to finish. It's an implementation handbook. So if anybody would like to see it, I

certainly brought one to share.

CHAIRPERSON RICHARD: Some of us would probably benefit from learning how to do high speed rail from start to finish. It's the finish part I think we might emphasize. Thank you, Ms. Eagon.

Mr. William Kerby followed by Mr. Paul Guerrero.

MR. KERBY: Good morning, Chairman Richard, honorable members of the Board.

I'm William Kerby, Treasurer of the Rail Passenger Association of California and Nevada. Rail PAC is a nonprofit California corporation that advocates for excellence in passenger rail.

I'm here today with a non-agenda item: Station planning in Sacramento. We all know that's way in the distant future due to the inclusion of Sacramento, San Diego, in the later phases of the high speed rail plan. But local and regional planning is underway that could compromise or enhance the quality of high speed rail service through Sacramento.

Recently, the urban land institute sent a multi-disciplinary team to Sacramento to study the development of what they call the intermodal transportation facility, ITF for short. It's proposed for the area around the Sacramento Valley station, which is also known or will be known as the restored historic Sacramento Depot.

The Urban Land Institute recommendation envisions a

transit district that adds to the historic Depot, one, a new intermodal transportation facility and, two, separated buildings that also includes the historic depot and, in the distant future, the high speed rail terminal.

Because physical separation of the passenger transfer nodes defeats the central purpose of an intermodal facility, and I should stress that, Rail PAC opposes the ULI recommendation to separate high speed rail from the intermodal transportation hub near the historic depot.

One of our directors, Chuck Robuck, presents the argument that making transit connections between modes rapidly and conveniently is the central purpose of an intermodal transportation facility. He explains the November December 2012 issues of Steel Wheels, an excerpt is attached to the document that you've been handed, that the ULA places high speed rail terminal approximately half a mile to the northeast of the depot. I'll cut to the chase.

The Rail PAC Board of Directors has adopted a formal position. It asked for the integration of the high speed rail terminal with the intermodal facility in order to not lose the time by walking up to 1200 feet from one facility to another, the time that has been gained by riding on the high speed rail system.

We urge that planning for the intermodal transportation facility be given the highest priority to the needs of rail



passenger arriving in or departing from Sacramento.

Thank you very much for your time.

CHAIRPERSON RICHARD: Thank you.

Before we go to our next speaker, somebody just sent me a text that -- maybe it's Ms. Berkhart, that the volume on our internet feed seems to be low. If someone can take a look at that as a technical matter so that the public who's participating via the web can make sure they can hear the proceedings.

Thank you, Mr. Kerby.

Paul Guerrero, followed by Ross Browning.

MR. GUERRERO: Did you want me to go now or wait until she fixes the feed?

CHAIRPERSON RICHARD: Why don't you get ahead.

MR. GUERRERO: Okay. A few of your meetings back, I think you know I talked about environmental justice. And as a result of that, I was given a copy of your procedure, which is dated August 2012. So apparently it was just developed, though it was supposed to be implemented at the earliest planning stages of the project.

If you review through this, your EJ guidance, is what it's called. On the page nine, it tells us that a report -- EJ compliance report is supposed to be prepared for each segment of the project.

One of our members asked by way of a public records request for a copy of the report that's been prepared. And the

response was that they didn't know what she was talking about. I'm sure there was no report in existence. So I would suggest that if you paid somebody to do this, you need to get your money back because apparently it's not done. Or if it has been done, we would like a copy of that report.

And that report, according to this -- and it has copies of attachments that are supposed to be filled out are supposed to be meetings held to advise the local people that the train is going to come through, the route it's proposed to take, the effect it's going to have on their property, what you intend to do to mitigate that, and the type of people that attend, so forth and what their comments were. We would like to see that, because you're going through a large minority, not just hispanics and blacks. There's Mong and other people down there that need to be addressed.

And coming to your meetings, we always hear all the people in and they never knew the train was coming. They never knew it was coming until somebody drove across their property and said, "Oh, by the way, we're going through your house. You didn't know that?"

We could like a copy of the report, if it's available, if it's possible to get it. If it's not possible, I think you should get your money back and hire somebody to go out and do the work they're supposed to do.

CHAIRPERSON RICHARD: Thank you, Mr. Guerrero.

Let me just say, I just looked at Mr. Morales. He's going to follow up on this. We take this issue very seriously.

I remember one of my earliest Board meetings, Vice Chair Schenk and I were talking about Title 6 compliance environmental justice issues. It's not only a legal requirement, but a morale one. We take it seriously. So we will investigate this issue.

MR. GUERRERO: It's an important thing to prevent somebody from attacking because we need to start moving on this thing.

CHAIRPERSON RICHARD: Right. Thank you, Mr. Guerrero.

Next is Ross Browning, followed by Dan Dolen.

Good morning, Mr. Browning.

MR. BROWNING: Good morning, Mr. Chairman and Board members.

Before I get started, I would like to deliver a statement from Alan Scott who couldn't be here today. I'll give it to the secretary and she can pass it onto you.

CHAIRPERSON RICHARD: For those who couldn't hear, Mr. Browning is developing a statement from Alan Scott. It will be included in the record.

MR. BROWNING: I forgot the mike doesn't move with me.

CHAIRPERSON RICHARD: The mike does not move with you.

MR. BROWNING: Sorry.

CHAIRPERSON RICHARD: However, if you're on a high speed rail train, the mike will be moving with you at very high

velocity.

MR. BROWNING: Maybe faster than I am. We'll get to that later.

I have some comments for Mr. Morales today. I recently saw video interview with you and Channel 11 Fox, and what I saw was both disturbing in your delivery and the answer given. You were speaking to an off-camera reporter, so I really don't know what the questions were. But I saw the document they were holding up and then I saw your answers. And quite frankly, I find your responses to be at times belittling, demeaning, and downright arrogant.

CHAIRPERSON RICHARD: Excuse me one second, Mr. Browning. I'm just going to stop the clock for a second.

It's customary to ask you to address your comments to the Board, not to an individual. You can certainly have the right to refer to something Mr. Morales said. But if I could ask you to put it in the third person instead of the first person and address it to the Board, that would be more appropriate.

MR. BROWNING: You'll automatically switch over everything I said to the third person?

CHAIRPERSON RICHARD: Yes, sir.

MR. BROWNING: High speed?

CHAIRPERSON RICHARD: Yes, sir.

MR. BROWNING: Very good.

Since I'd like to think that all of our senior public

officials are above actions such as I've just described, I find these actions are getting less rather than more transparent. Seem to be getting worse as time goes on. I feel I'm just not getting the best buck for my tax dollars from you.

Therefore, I'm asking that Mr. Morales resign his position as CEO. He doesn't seem to be able to live up to the position. Thank you.

CHAIRPERSON RICHARD: Thank you, Mr. Browning.

Dan Dolan, followed by David Schwegel.

MR. DOLAN: Thank you, Mr. Chairman, Vice Chairman, and the Board --

CHAIRPERSON RICHARD: Good morning.

MR. DOLAN: -- and high speed rail staff.

I have two items.

One is some good news for Jeff Morales, who was prominent with the KPMG final legislative budget. I identified two income streams that go with this article that I had permission from John Ortiz to give to you about the 3 Ps, public-private partnerships. And it's my belief that there would be a good income stream from two industries: Telecommunication and wind energy. If you'll allow them to participate as you construct your railroad, they could lease from the Authority wind farm leases and also fiberoptic cable rights.

My second item as is I wanted to thank particularly Jeff Morales, Tom Fellenz, and Patricia Jones for the outstanding

work they've done the last 15 months to finally get HSR 1102, which started July 2011 as HSR 11-20 to bid. I imagine you're going to get dozens of small business bids on the \$34 million project. And I think that's wonderful.

But I want the Board to particularly realize their responsibility and the care and effort that Mr. Morales and the Committee finalizing the short list take so that this will appear to be a fair bid. There was three companies that I think should not appear on the short list. And if they do, there will be repercussions in the small business community and unions. First is the Caltrans right-of-way division in Fresno and Bakersfield. Second is the associated right-of-way services of Larry Castellanos, a preferred vendor by Parsons Brinkerhoff. And third is Bender Rosenthal, Inc., Cydney Bender and Bob Morrison led company out of Sacramento that is the preferred vendor of URS, ARUP, and ACOM. Thank you.

CHAIRPERSON RICHARD: Thank you Mr. Dolan.

David Schwegel, followed by Baldwin Moy.

MR. SCHWEGEL: Good morning. My name is David Schwegel with the US High Speed Rail Association.

And I'm pleased that you are teaming up with us and the Transportation Institute for the High Speed Rail Conference, which Joe Shellhorse says is quickly shaping up to be one of the best high speed rail conferences ever. It's December 3rd through 5th at the L.A. MTA boardroom headquarters in downtown Los

Angeles.

Second off, with the American Society of Civil Engineers, they are extremely supportive of our project. Recall the ASCE is one of the world's largest associations of engineering professionals. Mr. Ken Rosenfield traveled to the international conference in Montreal last October to talk about how the project is going to be financed. And Mr. Rosenfield is also moving forward with a high speed rail infrastructure symposium March 6th at Los Angeles Union Station.

Finally, our Director of Public Outreach, Emmie Lui, suggests that high speed rail might be an interesting topic of discussion at storytelling festivals, which she has here in our Fast Trains book that just came out. It's stories that compare American roadway and airway journeys to comparable length journeys overseas. Should we wish to come out were a version of the book called Fast Trains, California High Speed Rail Future as opposed to American's High Speed Future, I'm sure she would be willing to help out.

Thank you so much.

CHAIRPERSON RICHARD: Thank you.

We have a lot of stories with High Speed Rail Authority. Some of them are probably not suitable for children. But thank you, Mr. Schwegel.

Baldwin Moy followed by Marvin Dean. I hope I pronounced your last name correct.

MR. MOY: That's correct.

Baldwin Moy, California Rural Assistance.

Mr. Chairman, members of the Board, we have submitted a series of comment letters throughout the review period. And each one of them commenting on targeted hirings that we're actually very encouraged with regard to Item 2 on the agenda. In fact, I can say that we're actually pretty excited that the Authority is going in that direction.

Having said that, we would like to urge the Board to consider expanding the scope to including not only what is contained in the report on Item 2, but also to consider pre-apprenticeship programs. We're talking about being able to facilitate the members of the EJ communities and get into the employment pipeline. And I think it would certainly be assisted by having not only apprentices being part of that, but also offering pre-apprenticeship programs as well as supportive services.

Having said that, my final point is something that we have consistently commented on is really the need for monitoring the compliance. Otherwise, all the goals that we're talking about are merely lofty goals. When I talk about monitoring and compliance, I'm talking about monitoring from the outset in terms of outreach, recruitment, training, hiring, and retention.

So in closing, I'd like to urge this Board to give it its highest priority in terms of both all the points that I've



raised. Thank you.

CHAIRPERSON RICHARD: Thank you very much, sir. We appreciate that.

Marvin Dean, followed by the last speaking request I have is Christopher Meyer.

MR. DEAN: First of all, I want to say good morning. I'm sorry I was late. I would be glad when we get high speed rail. I took AMTRAK. It was 30 minutes late.

I want to start with a couple thank you's. I haven't attended a Board meeting the last couple meetings. You guys mostly were in closed section. I wanted to thank Vice Chairman Tom Richard, Jeff Morales, and also Robert Padillo and also Brent with the project management team came to Bakersfield. Our association hosts a lunch on. We had elected officials there. We had business community there. We had labor. And we had the Chambers of Commerce and various representatives of the community, about 150 people. And there was a reception afterwards and then there was a lot of private meetings that Jeff made. It was about trying to do a new start in Bakersfield.

By all accounts, I think a lot of people came away that it was a lot of good things came out of it. We're going to build on it.

One thing happened shortly after that we were disappointed in. The city of Bakersfield took a vote to potentially file a lawsuit, not to file a lawsuit. I think

they're doing that personally just for the leverage of negotiations. They're going to be meeting with the working group that Jeff you have agreed to meet with the city on. I wouldn't get too excited about that, because most of the people down there are supportive of high speed rail.

The second reason I came today was to talk about our 6th annual public contracting expo we're going to be doing in February -- January -- January 10th and 11th in Fresno. We'd like to have the high speed rail participate in that. I'm going to make three requests later. I'm going to ask Vice Chair Richards, since he lives there, to be part of the evening event before the dinner. And I'm going to ask the CEO be at our luncheon on the 11th. And ask maybe your CEO for the high speed rail small business council -- that we have a lot of people not familiar with the Business Advisory Council. We think it would be a good opportunity to have a forum there to talk about that.

Then lastly, I just wanted to say that we, too, the contractor association, a group of us have formed the San Joaquin Valley Construction Academy. We're looking at the jobs in these environmental justice community to get these people ready. We want to work with the Authority and the Fresno Work Group. We think if something is not done, a lot of those folks that want to be included are not ready. We need outreach, effective job readiness, and referral into the state apprenticeship program. That's where the academy is.

My time is over. So thank you for hosting us here at the Capitol.

CHAIRPERSON RICHARD: Thank you, Mr. Dean.

I want to thank you, not because you are a high speed rail supporter of the project, but just in trying to help bring communications in Bakersfield. Whether people support or oppose, we need to have better lines of communication. So appreciate your leadership on that.

Mr. Meyer, you're our last speaker this morning. Welcome.

MR. MEYER: Thank you very much. Just more of a question than a comment.

A lot of experience in large scale infrastructure oversight for agencies. And just a real quick question, because I understand the massive amount of work that goes into doing an EIR/EIS of this magnitude on a large linear and then all the follow-on work of the biological, cultural, paleo, air quality, all the different plans that go into it.

And my question is what mechanisms do you have in place for overseeing that from an agency side and also involving the public on changes, re-routes, anything that may occur post-certification. And that's sort of my area, because it's just with all of the work that goes in in this stage of it, just making sure that all the commitments that are made to the high speed rail from anyone involved in the project are actually

carried through.

CHAIRPERSON RICHARD: Maybe what we could do is generally during the public comment period, we don't engage in a colloquy, but maybe, Mr. Morales, a member of your staff could be available to Mr. Meyer to talk about how we're handling those issues.

MR. MEYER: Great. Thank you very much.

CHAIRPERSON RICHARD: Okay. Just stick with us this morning. We'll have somebody chat with you.

Those are all the public comment cards I have. So with that, we'll close the public comment period. Thank you all for your comments. And now we'll move to our regular agenda.

The first item is approval of the minutes from the September 11th meeting. I think there were changes to the minutes.

VICE CHAIRPERSON SCHENK: Move approval.

CHAIRPERSON RICHARD: It's been moved by Vice Chair Schenk.

BOARD MEMBER HARTNETT: Second.

CHAIRPERSON RICHARD: Second by Mr. Hartnett.  
Please call the roll.

BOARD CLERK REED: Vice Chair Schenk?

VICE CHAIRPERSON SCHENK: Yes.

BOARD CLERK REED: Vice Chair Richards?

VICE CHAIRPERSON RICHARDS: Yes.

BOARD CLERK REED: Mr. Umberg?

BOARD MEMBER UMBERG: Aye.

BOARD CLERK REED: Mr. Hartnett?

BOARD MEMBER HARTNETT: Yes.

BOARD CLERK REED: Mr. Rossi?

BOARD MEMBER ROSSI: Yes.

BOARD CLERK REED: Chairman Richard?

CHAIRPERSON RICHARD: Yes.

Thank you.

Number of public comments this morning related to Item 2, which is an update on the Fresno Works Consortium Proposals and National Target Hiring Initiative.

Mr. Morales, do you want to start or turn this right over to Mr. Padillo?

CHIEF EXECUTIVE OFFICER MORALES: Mr. Chairman, I would just say as we've heard from Supervisor Perea and Ms. Eagon and others, we have been working closely with people of Fresno and elsewhere to ensure that as this project proceeds, we can provide the maximum possible benefit to our local communities and particularly in distressed -- economically distressed areas within the constraints of state law. And this presentation is a part of that ongoing effort to look at how we can do that.

CHAIRPERSON RICHARD: All right. Let's move to the presentation.

Good morning, Mr. Padilla.

SMALL BUSINESS ADVOCATE PADILLA: Good morning, Chairman Richards, members of the Board. My name is Robert Padilla.

CHAIRPERSON RICHARD: I had to run the gauntlet when I came in this morning of people being highly complimentary of your work. So I just want to warn you of that before we start.

SMALL BUSINESS ADVOCATE PADILLA: Thank you very much. I appreciate that.

Part of this agenda item for the purpose of some of the folks -- my name is Robert Padilla. I'm the Small Business Advocate for the California High Speed Rail Authority. This is an information item only. We don't suggest that any action is required on behalf of the Board.

But the State of California, we recognize more than 3.3 million small businesses. And these small business are responsible for more than half of the labor force in this state. Because we have what I continue to brag about, a 30 percent small business, small and disadvantaged business enterprise goal, we clearly draw the contention between where the jobs -- who does the hiring as small business owners. I think it's appropriate that we discuss strategies that ensure skilled labor is available and properly trained to meet and to fill the jobs that our project, the high speed rail project, will bring to the state and particularly to the Central Valley.

So I'd like to take this moment to introduce Blake Konzcal. Blake is the Executive Director of the Fresno Regional

Workforce Investment Board to talk a little bit about some of the efforts that the Central Valley, the Fresno area, has taken in advancing a national target hiring initiative. Mr. Konzcal.

CHAIRPERSON RICHARD: Welcome back, Mr. Konzcal. Nice to see you again.

MR. KONZCAL: Thank you, Chair Richard.

VICE CHAIRPERSON RICHARDS: May I make a quick comment?

Just as a matter of transparency, and because Blake has been introduced as his full-time position, for the public and for my colleagues, I have mentioned this before. And because this is an information item and you're not here actually representing the Workforce Investment Board, I also sit as the Chair of the Fresno Regional Workforce Investment Board.

CHAIRPERSON RICHARD: Thank you. It is a good thing. But transparency is also a good thing. Thank you, Mr. Richards.

Okay. Mr. Konzcal.

MR. KONZCAL: Thank you, Mr. Chairman and Board.

Although, I'm the Executive Direct for the Fresno Workforce Board, I'm here on behalf of the Fresno Works Consortium, which is a partnership with members from the private sector, elected officials, and different jurisdictions, public education, workforce investment, organized labor, and a lot of community-based organizations within Fresno that are focused on trying to help high speed rail come to our town and get it built quickly.

And understanding that we have a limited amount of time, I'm only going to talk for a couple minutes. And I brought with me Ken Price, who is the corporate counsel for the WIB. Chuck Riojas with the local IBEW, and Michael Burneck, who has been doing work for us trying to craft a policy recommendation for you all.

Just as background, 18 months ago, we did an initial presentation to your Board. And at that time, the High Speed Rail Authority staff submitted what we had come up with to the Federal Rail Authority. And they came back with a lot of questions about how legally one could make employment opportunities available the residents of areas of high long-term unemployment.

Over the course of that 18 months, we were able to find out the Los Angeles County Metropolitan Transit Authority in working with the Federal Transit Administration rather was addressing the same question. And through the Chief Legal counsel at FTA, at the Transit Administration, a man by the name of Dorvel Carter, an opinion was put forward that said it was possible to have focused or targeted hiring for areas of high long-term unemployment nationally. We were able to get ahold of the legal reasoning that went into that opinion.

And through elected representatives in Fresno, a request was put forward to the Secretary of Transportation LaHood that it seemed that what the FTA was granting to Los Angeles



County Transit was what the FRA was denying in our request. So Secretary LaHood asked there be a unified federal policy across the different administrations and we were able to generate a revised positive findings from Federal Rail Administration legal counsel Melissa Porter.

I should mention the letters I'm referencing, I have copies if you want all went them. I can give them to you. We were ecstatic. We found a policy. We revised our policy to comport with the language that Los Angeles County had submitted and been analyzed. And then we communicated that information back to your Board.

I'd like to ask Ken Price to come forward to give you a brief overview of what the actual policy is.

MR. PRICE: Thank you very much, Blake.

Again, my name is Ken Price. I'm the counsel for the Fresno Regional Workforce Investment Board.

The proposal that you have in front of you today is the result of just about two years of work from this very dedicated team that Mr. Konzcal mentioned to you. We researched various concepts to ensure that whatever we recommended to the Authority would pass federal muster. And we were very aware there were legal issues arising from the United States Constitution and federal regulations in this area. And we targeted very, very carefully to address those.

And to be clear up front and to clear up any

misconception about what we're proposing, we are not recommending a local hire program. We are not mandating the Authority or its contractors hire on the basis of any geographical region. Attached to your packet of materials is a legal analysis that I've prepared for the Fresno Regional Workforce Investment Board and the Fresno Works Consortium stating that the targeted hiring program complies with federal and state constitutional requirements.

And in fact, which you I believe have in front of you as well a letter from the DOT that Mr. Konzcal had referenced dated June 29th, 2012, to Fresno Mayor Ashley Swearengin again. And it's very clear the letter says, "The FRA respects the choices of the Authority" -- I'm quoting here -- "in adopting a variation of a targeted hiring program so long as the program is consistent with California State procurement policies and procedures that the Authority uses in the expenditures of its non-federal funds."

What we are recommending is consistent with California State procurement policies and procedures. And very generally speaking, our recommended program requires that a minimum of ten percent of all hours of work be performed by workers in either what we're calling national extremely economically disadvantaged areas, which are workers whose primary residence is within a ZIP code that includes a Census tract or a portion thereof in which the median household income is \$27,000 a year. These workers in

our program would have priority.

Or, alternatively, there would be an advantage for national disadvantaged workers which meet at least one of the following barriers to unemployment -- to employment. Workers whose primary place of residence is within a ZIP code that includes a Census tract or portion thereof in which the median household income is \$40,000 per year, homeless workers, custodial single parents, workers who are receiving public assistance, workers who lack a GED or high school diploma, workers with a criminal record, workers who suffer from chronic unemployment, who are emancipated from the foster care system, veterans, and apprentices with less than 15 percent of the required graduating apprenticeship hours at a certified apprenticeship training program.

Secondly, we are recommending that a minimum of 40 percent of all hours of project work be performed by the national disadvantaged workers, which is the litany that I just mentioned.

Third, at least 20 percent of total work hours on each project be performed by apprentices.

Now just to be super clear here, there is no magic to these numbers. We looked at other programs. We looked at the Alameda corridor program to see what they were doing. We looked at other local hire type and targeted hiring type programs to see exactly how they were structured.

What we'd like to do and what we've asked for is to sit

down with the Authority staff to discuss the numbers and to discuss how we can implement the program. And we think it can be done on a very clear and cost effective basis. And of course, as you know, we remain available to assist in any way that we possibly can. Thank you.

CHAIRPERSON RICHARD: Thank you.

MR. KONZCAL: If I could ask Chuck Riojas to come up from the local IBW also with the Fresno, Madera, Tulare, Kings -- I think that's all of them -- Building Trades Council.

MR. RIOJAS: Good morning. My name is Chuck Riojas, 25 year member of the IBW.

I'm here not to speak as a union electrician. I've been one trustee of six that oversees our apprenticeship program in Fresno, Madera, Tulare and Kings. So my words here today are specifically to apprenticeship. But more to the point is pre-apprenticeship. What we've been doing in Fresno County and Madera County trying to get into Tulare and Kings County is running what we term as a jump start program. What we are doing is we are preparing the workforce for opportunities such as this in the apprenticeship programs that we offer throughout the building trades.

So when it talks about the targeted hiring initiative, what I've been doing for the past 18 months is going to the respective counties, cities, the agencies, the HUDs, and explaining what it is to get into our apprenticeship programs.

And they have been preparing their clientele with the GED, with the high school diploma, with the algebra requirements that are necessary to get into our apprenticeship programs.

We have run four pre-apprenticeship programs, three in Fresno County and one in Madera County. We have roughly 100 participants ready and in the pipeline geared towards high speed rail construction, ready to go to work. And these are the underserved communities, the people that the national targeting hiring program goes. We hope to duplicate this in Kern County as well as Stanislaus and Mariposa County. Within our structure, we can go statewide within IBW and the building trades statewide.

So basically, what we're hoping to do and what I like to think we've done is invent the wheel and then we're going to duplicate it throughout the state when it comes to a national targeted hiring program.

So basically -- you know, basically that's it. So we just want to create that opportunity for a client to come into our apprenticeship programs and hopefully succeed. But there again, it is no guarantee of success. They have to do the work and the five-year apprenticeship program. The actual percentage to what he was talking about, the 20 percent, it's in state law anyway, 1777.5 labor code that says one out of every five hours has to be an apprenticeable hour in the state of California. We already adhere to that as far as within the trades. This isn't I'd like to stress a union or non-union document. It's basically

giving those people the opportunity to come into the respective apprenticeship programs, be it union or non-union in any apprenticeable craft.

So basically that's it. Thank you.

CHAIRPERSON RICHARD: I would just say 20 years ago, I was elected to the BART Board. And right after that served with my colleague who is about to come up, Michael Burneck. And I spent a day going around Contra Costa County to the various apprenticeship programs and workers, the electricians, the laborers, so forth. I was blown away. It's a huge swath of American's education system is being carried out through these apprenticeship programs that you folks run. And it's really quite commendable.

MR. RIOJAS: Thank you, sir.

MR. KONZCAL: I'd like to call up Michael Burneck who has helped us craft this policy.

CHAIRPERSON RICHARD: This is -- Michael never changes. I guess this is where I have to be transparent. We've been colleagues for -- it goes back 20 years, 1992.

VICE CHAIRPERSON SCHENK: And in transparency, we've been colleagues for a long time.

CHAIRPERSON RICHARD: For those who don't know Mr. Burneck, in addition to a very deep commitment to transportation, also is one of the nation's experts on transit land use and transit-oriented development and served under Governor Gray Davis

as the Director of the Employment Development Department. So welcome

MR. BURNECK: I should quit now, Tom. I appreciate that.

I just want to make three points. I want to add a fourth one based on what you just said, Dan.

One about this policy, no bureaucracy, all private sector oriented, I think very consistent with where the Authority has been going and where the Governor is going.

Two, it's very consistent with what we've seen in terms of labor markets and infrastructure projects over the past really post World War II period in California. People say, well, are we going to be able to find enough workers in the valley? What we've seen in these other projects is labor markets work very effectively. People -- as workers are needed, skills are transferable, people move into them. There hasn't been -- you know on BART to the airport, really a dearth of workers or difficulty in getting workers. People move quickly. Information even more so now than before is rapid. And I think there is certainly, as we know, no dearth of unemployed construction workers in the valley. No dearth of people for the pre apprenticeship programs, as Chuck talked about. I think we'll find there is no dearth of workers who have the skills or move very rapidly into some of the other construction management jobs and other professional services jobs.

Three, the Authority hasn't spent a lot of time on job projections in recent year. I think that's a good idea. Most of these job projections for growth in transportation are way off. They're just not worth the time or money.

But I do think this policy can help in two ways. One, I think as we -- as it is implemented, I think it's worth tracking the jobs once it gets going. I think we'll learn a lot in terms of tracking in a way that hasn't been done on other projects in California.

And two, I think we can learn a lot in terms of can we develop in the valley? And to me, this is really a key point. Can we develop in the valley economy an expertise in certain areas of high speed rail operations as well as construction that's sellable, both other parts as we expand the project in California and throughout the United States and possibly throughout the world.

So I think there are ways of learning from this as part of this project, learning in terms of both jobs created and economic development skills.

So we've spent a lot of time on the project. It's been Blake, what? 18 months, but I think we got it right now.

Matt, did you want to --

MR. KONZCAL: And that's the information item, Mr. Chairman. I wanted to thank Mr. Morales and his staff. We had an opportunity prior to this meeting to meet with them to try to



make sure that we brought information that would be useful and that we would have the right documentation.

Should anybody have any questions, we would be happy to answer them.

CHAIRPERSON RICHARD: Let me turn to my colleagues and ask if there are questions for any --

VICE CHAIRPERSON SCHENK: Just to compliment them.

CHAIRPERSON RICHARD: Yes. Let us compliment you for your work. I remember especially our January or February Board meeting in Los Angeles, this came up. At the time -- I think all of us have been sympathetic. I was somewhat skeptical as to whether or not you were going to be able to run the gauntlet of federal, legal compliance. You've clearly done that.

My understanding is that both through your work and I want to compliment our CEO Mr. Morales that there had been a lot of very positive discussions with the construction trades, the represented union, and making sure that this program dovetails with what is the normal course of business there. So it just sounds like everybody has done -- put in a lot of hard work and come up with a very constructive program.

And I suspect I speak for my colleagues in saying that all of us want to see the benefits of high speed rail spread as broadly through our state as possible and reaching into every corner of our state's socio economic strata. And this is a very important program to do that. So congratulations. And thank

you.

MR. KONZCAL: Thank you, Mr. Chairman.

CHAIRPERSON RICHARD: Thank you all.

We'll move to our next item, which is a very important item. And that is, there is a lot of discussion. And we've had a lot of discussion in this Capitol building with members of the Legislature about how we're going to go about handling risk management as we embark on what is certainly the State and maybe the nation's largest infrastructure project.

So we're very pleased that we have an expert in risk management who has joined our team. Mr. Morales, do you want to just introduce this quickly?

CHIEF EXECUTIVE OFFICER MORALES: Thank you, Mr. Chairman.

Yes, as you said, one of the highest priorities in filling out the executive team is bringing on a dedicated risk manager. We're very pleased we were able to bring on Jon Tapping. And he's coming off the very successful stint of managing risk on the Bay Bridge project. I should say since he joined that project, it has been moving ahead of schedule and under budget. I'm sure you'll take full credit.

He brought a discipline to that program that has really been demonstrated. And he's a national leader in this area, involved in the national panels. It's important for him to give an overview of how this discipline of risk management is now

being injected into our decision-making process.

CHAIRPERSON RICHARD: Good morning, Mr. Tapping, and welcome.

(Whereupon a slide show presentation was given as follows.)

RISK MANAGER TAPPING: Good morning, Chairman Richard. And thank you. I want to thank the Board for giving me an opportunity to talk about one of my passions. It's not slow cook barbecue this time; it's risk management. But certainly it's one of my passions.

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RISK MANAGER TAPPING: A little bit about my background. I'm a transportation program management executive with over 29 years experience in mega construction design, management, and maintenance. I even have some rail experience.

I've held management positions with the Department of Transportation. And most recently, I was the risk manager on the \$6.3 billion mega project Bay Bridge. There, I reported to a Program Oversight Committee consisting of the Director of Caltrans, the Executive Director of the California Transportation Commission, and the MTC, Steve Hemmenger. So there, I was rather autonomous position.

I was brought in after Assembly Bill 144 passed, which basically put into place that management by that Program Oversight Committee. So I implemented -- I was charged with

implementing risk management into the program, enhancing it, developing a program going with a mantra, my vision, and going forward and that I did.

And six years later, using a lot of risk management techniques, we are projected to finish under budget. And that project will open Labor Day or before. So a very successful project.

But more than that, I'm really excited about this project, because it's -- I saw in the paper project of the century. For me, it's the project of a lifetime. It's great to be able to jump from that mega project to this one.

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RISK MANAGER TAPPING: As part of my experience in my prior risk management position, I'm seeing a lot of de ja vu. For example, your legislative requirements in risk management are exactly the exact same with minor changes with requirements that were held to the Bay Bridge program.

I have worked extensively with the Bureau of State Audits, different stakeholder agencies, Transportation Research Board I was actually a member of MCHRP 658, which was published a couple of years ago. It's a guidebook on risk analysis tools and management practices to control transportation project cost. Something right down our alley. So I have that experience. I have that credibility in working with checks and balances and oversight agencies.

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RISK MANAGER TAPPING: A little bit about the presentation today. It's a brief presentation. I wanted to talk about:

The statutory risk management requirements that we are facing as a result of State Bill 1029;

The value of comprehensive risk management, what it can do for the program;

Planning and implementation, what we currently have in place, which is a fairly robust risk management program, but I have some ideas in taking it forward;

Challenges and successes in implementing a risk management program;

How you can make risk management decisions even in a State agency, which is really rewarding to see risk-driven decisions, because sometimes in a State agency, there is a lot of checks and balances and a lot of standards, but also reasons to look at varying sometimes for risk-based decisions.

So what's really exciting is to see I think there is a lot of opportunity in the Authority because of the way it's structured to make a cultural change or to -- because of the streamlined nature of it to be very effective. And so I'm very excited about being involved in that.

We're talking about coming attractions, quantitative tools I'm sure Mr. Rossi will be interested in, but also some

practical tools and cultural challenges that are very important.

So let's move forward. You probably can't read this. But everyone has read Senate Bill 1029 I assume.

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RISK MANAGER TAPPING: This is language I'm familiar with in my earlier program in risk management. And it's basically to develop a comprehensive risk management that defines roles and responsibilities for risk management. To quantify the effective of risk in financial terms, some type of quantitative risk analysis.

Regularly updating your capital estimate and capital outlay support estimates based on a risk-management approach.

And plans for basically responding to the risk and tracking the risk and continuing. It's not a one-time thing. It's not doing one Monte Carlo analysis before the project goes out. It's doing routine Monte Carlo analysis to look at contingencies, to look at forecasting, and also to make risk-driven decisions. And we've already done a number of those. And my mantra is to continue that process.

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RISK MANAGER TAPPING: I don't know those who have kids, a lot of times they ask, "What do you do for a living, daddy?" When I was 25, I could tell them I designed and built bridges and that was pretty easy. But telling them what a risk manager does is a little challenging. So I thought this would be a good

slide. It worked with my daughter and it worked --

CHAIRPERSON RICHARD: You could tell them you just make sure bridges don't fall down.

RISK MANAGER TAPPING: Exactly.

And it worked with me, actually. When I was put into risk management, my primary background was engineering and procurement and contract administration. So I've seen a lot of the downstream end of risk.

But this is a -- Sam Savage, he wrote the *Flaw of Averages*, a very interesting book. Basically, the caption is if you look at an average of this sketch, you come up with an average water depth of three feet. If you make a risk-based decision based on the average is three feet, I can run through that lake, but there is uncertainty in that. So here you can see the guy fell in a hole that was over three feet. He's not doing too well.

So I think the lesson is to the extent that you can identify risk and you can identify an uncertainty, you can make better risk-based decisions based on uncertainty.

So to me, this kind of put it in perspective. For example, a lot of times an engineer's estimate is a single number. The agency I came from is a single number, it's not a range. From a transparency standpoint, there are risks and uncertainties and opportunities certainly that affect that.

So to the extent that you can identify that and be

transparent with it, you know, the estimate can range from here to here and here's why, that is really the concept here of taking it from falling into a -- drowning in a pond to applying it to estimates, applying it to schedules, applying it to other project values like quality.

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RISK MANAGER TAPPING: So what is the value? Again, it's transparent. A risk is a four letter word, but it's not a bad word. It's a bad word if you don't identify it and you don't manage it and you aren't transparent with it.

So it helps stakeholders, the project stakeholders I think, accept the value and understand that there are uncertainties in a project in moving forward.

You can contribute to project success. Certainly make more informed budget decisions based on your uncertainty in a certain decision. And you know, it saves money that there is many examples where we did a scenario looking at should we pay a certain contractor incentive to accelerate this contract in order to make a schedule on another contract. And you run an uncertainty analysis through both schedules, and you know it didn't make sense to do that because of the risk associated with both projects. So it drove a risk-based decision that saved millions of dollars and the effort that went into it again was nominal. So it can pay for itself ten-fold.

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RISK MANAGER TAPPING: Risk management cycle, it's not rocket science. It can be rocket science. I think the challenge is not making it rocket science when you're implementing it with construction, design, maintenance, operations. It has to be a part of the overall organization. It can't be too complex. We took baby steps in getting to where we were. I want to do a similar approach of incremental, more complex quantitative approaches.

But basically, it's not complicated. You have a risk management plan which basically outlines the roles, responsibilities, accountabilities. I'm a risk manager. I have a certain amount of autonomy in reporting to the Audit Committee and CEO Morales. So there is some checks and balances there. It's that kind of thing. You have the plan in an organization what the risk manager is going to do, what autonomy he has, and what you do with the information.

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RISK MANAGER TAPPING: So you identify risk. That's pretty easy. We have a risk register that's pages and pages long that identifies risk. And we do that in a workshop environment.

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RISK MANAGER TAPPING: Then you prioritize the risk and I have some examples about how that is done.

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RISK MANAGER TAPPING: Then you perform, if you wish to

go further, a quantitative risk analysis, which again gives you that uncertainty of meeting a project value or a confidence level in meeting a project value.

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RISK MANAGER TAPPING: Planning is if you have to have a risk response, there are various ways you can respond the a risk. You can mitigate it. You can transfer it and so forth.

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RISK MANAGER TAPPING: And you have to track that. And it's a cycle process. Again, it's not a one-time process because as you retire risks or as risks may come more significant or you realize opportunities, it changes. So typically, there is a quarterly cycle that is done where you go through this process and you update your risk registers on a quarterly basis.

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RISK MANAGER TAPPING: Comprehensive risk management. Basically, the system -- you know, if you go back in time and you ask what a risk manager did, I think back in the 60s you'd say it's an insurance broker or someone that procures insurance. But you know, what it really is now is there's risks that aren't insurable or shouldn't be. So it's all risk. It's integrating all of the risks based decisions, prioritizing and just making risk decisions.

So certainly it involves insurable risk as well. And a big part of my role will be to recommend certain insurance

mechanisms in the contracts as we go forward and risk transfers as we go forward.

But this comprehensive risk management will involve schedule risk, budget forecasting, adequacy of reserves, tracking all potential change orders and claims and assessing that from a risk standpoint. So it's pulling all this information together.

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RISK MANAGER TAPPING: And how we do it? Well, you know, there's this paradigm of do you write a manual and implement a manual or do you provide a service and basically provide a risk service to the Authority where people come for your service. And I think the truth of my philosophy is somewhere in between. You certainly need a rigid -- well, flexible but guidelines on how to implement the approach. It has to be auditable. You have to follow your processes. But you have to provide a service. And I have a couple of examples of how you provide a service. I don't mean unnecessarily to the Board, but it does. But also to the project at the rank and file level as we move forward.

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RISK MANAGER TAPPING: So the first thing we do is put together a risk management plan, which is in place. It was in place when I came in.

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RISK MANAGER TAPPING: We modified it. It involves

roles and responsibilities, implementation steps, reporting all those things, that process and procedure.

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RISK MANAGER TAPPING: And so it provides a framework for how the risk manager and staff are going to do their business.

So that is in place, and we are updating it. We have -- it will be approved very shortly. And it basically was updated to incorporate my role in the Authority, to incorporate the Senate Bill 1029 requirements and explain exactly how we are fulfilling those requirements.

Also, it incorporates some of the BSA recommendations on how to go forward efficiently. And so our new risk management plan incorporates all these things, and I believe is an auditable document that will demonstrate how we have complied with Senate Bill 1029.

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RISK MANAGER TAPPING: Getting started, I'll just talk about the process very quickly.

We have risk register. We have a risk team with cross-functional people. Again, it's important not to get group think. So you get a wide variety of experts from all elements, design, construction, ops, and put them together in a room and come up with a risk register. It's led by a facilitator who is experienced in risk management. Because a lot of times, the

different functional areas may have different perspectives on what -- is it a risk or what is the impact of the risk. So we've done that. That's been in place several years, a comprehensive risk register.

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RISK MANAGER TAPPING: The next thing you do is a qualitative risk analysis. Again, I won't go through all of this.

But the green, it's kind of a traffic-like scenario or heat map scenario where green is a minor risk or opportunity that may have little impact on project values but can be resolved by the team. Whereas, the red one at the top may have a significant impact on project values. And by that I mean by schedule, cost, quality, that kind of thing.

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RISK MANAGER TAPPING: Now into some of the pretty cool but simple tools. You can do this for any risk, and we do it for every risk. You identify the probability that it might occur, ranging from very low to very high. And the impact, and basically you determine this heat map. And naturally, if you have a check box over in the red, that's a risk that you want to prioritize. You want to perhaps assign a focus team to look at it, to respond to it, and report on it. So it's a very simple tool. It makes very effective reporting at a very high level for comprehensive risks.

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RISK MANAGER TAPPING: Quantitative goes one step further. And this is really fun.

When I started actually in risk management, I was actually -- because people's eyes started to glaze over when I talked about Monte Carlo analysis. And I didn't see the true value in it until we had some good help run me through some examples of it. And now it is such an awesome tool to move forward in comprehensive risk management.

And the challenge was kind of making it simple for the team so they understood it. And I'm talking the staff level, knew what we were doing, why we were doing it, and the outcome of it.

But basically, you estimate an optimist, a pessimistic, and a most likely value. You keep it simple. You stay within the team's comfort zone when you're talking workshops, try triangular distribution.

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RISK MANAGER TAPPING: And it can be uniform distribution if you don't have a most likely. And this involves a lot of discussion between the team itself as to what is pessimistic, what is optimistic. Is it one in 20, this kind of discussion.

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RISK MANAGER TAPPING: Usually it reaches consensus.

From that analysis, you can do that with every risk and generate a probability curve.

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RISK MANAGER TAPPING: This is one way to demonstrate a probability curve that I think is extremely effective. I used it for my Program Oversight Committee in every presentation, and they would use it back on me as well.

But if you have the probability of an overrun, for example, on the vertical axis and cost on the horizontal, you can get a cost distribution or a time distribution. And you can determine what is your 50 percent likelihood of finishing at a certain cost.

Likewise, if you want to budget, say, for an 80 percent confidence level, 90 percent confidence level, you can see -- you go to the curve and pick out that cost. And then from the risk perspective you could say, you know, we are forecasted to complete with a 90 percent confidence level at this cost. So it's a great tool. There is a lot of analysis that goes into it, and it's got to be good analysis in and good analysis out. But it gives you a very effective way to manage contingency, to make risk-based decisions, and to forecast in moving forward.

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RISK MANAGER TAPPING: This is an example of an earlier project where the curve you can see potential draw on program contingency. We had a program contingency that was allotted

under the enabling legislation and that's represented by the vertical blue line. And then they have a cost risk curve which represents the range of cost to finish the project. And you can see here that there is potentially a 90 percent confidence level that we would finish within the budget. And since that time, it's actually, the picture has gotten more optimistic than that. So again, that's a good example.

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RISK MANAGER TAPPING: Naturally, the curve can be on the other side of the line. And that's sometimes challenging.

One of the real effective ways you can use a quantitative approach is to set your contingency using a risk management approach, rather than a perfunctory contingency based on historic norms. I think some legislation in my earlier agency, we couldn't go above 10 percent. We could on a mega project, but not on our bread and butter projects.

So, for example, the blue line represents a contract price estimate. Maybe a contingency that's a perfunctory five percent that we would typically design to.

A risk management approach is you basically have the contract price estimate and you role into that the Monte Carlo approach of looking at the variability of both the quantities and the price. And potentially your delay risk during construction and you roll that all in together, and it may give you a basically a risk-driven suggested contingency at whatever



confidence level you wish. And you can do that. You can set a budget at a more aggressive confidence level for maybe lower down in the administration scale but higher up Authority levels for approval of change orders or whatever based on this type of approach.

CHAIRPERSON RICHARD: Mr. Tapping, I think Director Rossi had a question if we could.

BOARD MEMBER ROSSI: I had a couple of for you. As you talk about your Monte Carlo, how many data points do you have in order to feel comfortable with the Monte Carlo is representative of where real risk output measurement?

RISK MANAGER TAPPING: I think certainly over 50. I think up to 100. If you have up to 100 data points, you get some good representation.

BOARD MEMBER ROSSI: So have you started to run these?

RISK MANAGER TAPPING: We have. We have looked at certain segments of the project and done some quantitative analysis, yes.

BOARD MEMBER ROSSI: How do you decide which segments to look at this stage?

RISK MANAGER TAPPING: I think that's a good question, because if you have a lot of alternatives --

CHAIRPERSON RICHARD: That implies the first two weren't.

BOARD MEMBER ROSSI: That's exactly right. I got it.

RISK MANAGER TAPPING: That's a really good question.

BOARD MEMBER ROSSI: That's a much better response.

CHAIRPERSON RICHARD: Pretty good risk mitigation down there.

RISK MANAGER TAPPING: Where there is a lot of variability in alignments, I think we would be challenged in getting real good results. If you have an alignment that's set and a plan -- if you don't have a plan, it's hard to do an analysis against that plan.

So I would say to the extent that CP1 is further along the way, we've done some sensitivity analysis on that segment. And so my -- I think my philosophy in rolling forward would be to take baby steps where we have more of a defined plan in the segments as we move forward.

BOARD MEMBER ROSSI: Could we get a plan on the approach and the priorities for doing Monte Carlos? Would you also be doing them on O&Ms?

RISK MANAGER TAPPING: Yes. The answer is yes. You know, we have to do a comprehensive wholistic approach and bring all of that together. And I think that's one of the things we need to do as we move forward. Yes, and we can develop that plan.

BOARD MEMBER ROSSI: Would you also do a Markov model on top of the Monte Carlo?

RISK MANAGER TAPPING: What is the Markov model?

BOARD MEMBER ROSSI: Markov model identifies unidentified risk.

RISK MANAGER TAPPING: Okay.

BOARD MEMBER ROSSI: So I don't know how applicable it might be, but it may be particularly in the area of demand and operating and maintenance.

RISK MANAGER TAPPING: Okay. We will take that on.

BOARD MEMBER ROSSI: Thank you.

RISK MANAGER TAPPING: Thank you for the brilliant question.

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RISK MANAGER TAPPING: This is another way we can use the quantitative approach during construction or further down the road.

This is another example. We had a contract \$1.04 billion project, and we had some contract change orders associated with the project. This project was about two years from completion. We ran the model --

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RISK MANAGER TAPPING: -- and identified two years before completion that we would most likely finish under budget. And again using the approach to forecast, not only to set contingency but to forecast moving forward.

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RISK MANAGER TAPPING: That's what we did.

Schedule risk analysis is much like a cost risk analysis, except you introduce schedule risk into a CPM type of analysis. It can be more complex because you have critical paths and such. But again, incrementally, we want to introduce this into our analysis as we go forward.

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RISK MANAGER TAPPING: These are a couple of examples of why I think risk management works. These are two examples. One of them was more a routine project than the other, as you can see. The green represents I think it's change orders. And the red is risk. But --

CHAIRPERSON RICHARD: The green is change orders.

RISK MANAGER TAPPING: Thank you very much.

The first project you can see we had a budget set very early on, and you can see the red was the range of risk on top of the change orders that were being implemented during the project. And you can see one on the top couple of quarters in there was a fairly large resolution of claims, which you can see both the risk went down and the cost of change order went up.

But in the end, if you were to forecast several years before completion, using the risk approach, either the 50 percent number or a greater confidence number, it was a great forecasting tool. Likewise, the one below you can see had some scope change, some significant scope change. However, you can see the red risk -- you really telegraphed the scope change before the budget

change to implement and complete the project.

So very early on, years before if you look towards the end there, a couple of years before completing that, we had forecasted the completion of that project I think at 492 and it came in very, very close. So it was a very good, I think, use of forecasting tool in these two instances.

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RISK MANAGER TAPPING: This again shows the program showing the program reserve in blue and range of risk in red. And every quarter, I'll tell you was an experience.

But I think the nice thing to see at the very end here is the range of risk has narrowed and also the uncertainty has narrowed. And again, we're projecting on that particular project I think a lot through the risk management process and the discipline approach we took to managing all of those risks that were identified.

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RISK MANAGER TAPPING: Some of the challenges at least that I saw were it's oftentimes seen as something that is off to the side. It's not included in the project management. It's an audit function. What do I get out of it? And so again, I go back to culture is really important. Making risk-based decisions, explaining at the workshops why we're doing this and how we can help them. We can, for example, help them if there is a budget change request. We can -- risk management can assist in

documenting an appropriate budget change using these approaches I've discussed.

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RISK MANAGER TAPPING: Again, I'm really optimistic with the way the Authority is structured that some effective risk management can be done. A lot of times in a large organization, you have organizational silos. We used to call them cylinders of excellence, but to drill through them is pretty tough sometimes. And one thing I like about my job right now is I can go next door and that's the person I deal with. So it's a lot easier I think. I think that challenge will be easier here.

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RISK MANAGER TAPPING: A lot of times although a lot of our procurement is designed build here, there is this over-the-shoulder sometimes philosophy in public works projects where there is a design and it's handed over to a reviewer and it's handed to an office engineer who puts it out to bid and a contractor takes it on.

And one of the things that risk management does culturally is it brings the parties together to talk about risk. So you get people from the downstream end that see the impacts and want to make the changes at the upstream end. So I think it's a great process for improving teamwork.

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RISK MANAGER TAPPING: Well, let's talk about some of

the risks facing the High Speed Rail Authority.

And as Board Member Rossi mentioned, bringing together all of these risks and all of these analysis. There is a business risk certainly of the ridership and revenue variability and the operation and maintenance cost.

So again, I think we've undertaken some sensitivity analysis with respect to that, and that's addressed in our business plan. And as we moved forward and assumptions changed and certainties change and our plan becomes more defined, I would expect to expand upon that.

Investment risk is a lot of the bread and butter kind of technical organizational risks, staffing and organizational structure. And I've seen actually since I've come on some huge risk responses that are very positive in that regard.

CHAIRPERSON RICHARD: Excuse me. Okay. I'm sorry. Please continue.

RISK MANAGER TAPPING: Okay. Leadership in place, CEO Morales and others, myself.

CHAIRPERSON RICHARD: Absolutely right.

RISK MANAGER TAPPING: And a lot of times, most of our significant risks are third-party risks. The ones listed there are all pretty high up on our risk register as priority issues. And we have teams and risk owners that are dealing with all of those issues.

VICE CHAIRPERSON SCHENK: Jon, where would you slot in

third party sort of natural causes, risks, flooding, earthquakes? That kind of risk?

RISK MANAGER TAPPING: It's kind of your casualty risk. And a lot of public works projects have clauses that share that risk. I'm not sure what ours have. But for example, an occurrence is defined as an earthquake over a certain amount. And if there is damage to a public works project during construction, there is a cost sharing for the repair of it. So it can be allocated depending on the risk tolerance of the owner. It can be allocated in the most efficient way.

VICE CHAIRPERSON SCHENK: The funding is one side of it. But being prepared for something and to get back on track -- excuse the expression -- as quickly as possible. I mean, lessons to be learned from Sandy, et cetera.

RISK MANAGER TAPPING: Exactly. We don't generally plan for what they call black swans, but certainly storm damage and things like this, we have contract provisions that deal with that. And it's in our contracts.

CHAIRPERSON RICHARD: All right. I thought what the Vice Chair was asking was more of an operational question, that beyond the financial side, on the operational side, how does the organization prepare itself to recover from and reinstitute either construction or service as quickly as possible beyond the economics.

VICE CHAIRPERSON SCHENK: That's exactly right.



RISK MANAGER TAPPING: I probably don't have enough information to give you an answer on that. But I know the operation side of the house is looking at mitigation -- for technical mitigation for if there was an earthquake during operations, it's a huge issue that we are looking at.

VICE CHAIRPERSON SCHENK: Is that something that will come generally under your purview?

RISK MANAGER TAPPING: Yeah. I'm finding my purview is rather large. I'm also the Authority's safety officer and securities officer at this point. So all that is rolled under me kind of under a separate unit, but it can well be integrated, so yeah. In fact --

CHIEF EXECUTIVE OFFICER MORALES: If I could add. Many of the issues are dealt with contractually with the provider for service, and they have to develop mitigation plans, things both on the construction side and ultimately on the operational side of how they would develop. So those would be plans that we would develop jointly with them and we would have to review and approve through the contracting process.

VICE CHAIRPERSON SCHENK: That's my concern that we don't trust but verify to ensure it meets our needs and standards. Thank you.

RISK MANAGER TAPPING: Thank you. So moving forward --

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RISK MANAGER TAPPING: -- this is the plan. We update

the risk management plan to fully comply with Senate Bill 1029, expand the use of quantitative risk management analyses, and we will prepare some type of plan for that.

Schedule risk analysis, budget forecast and contingency risk analysis. We've got a risk information system that we're rolling out that will help with the tracking and the monitoring of the risks and the documentation of the risk to make sure that we have something that's accountable.

And lastly, to move forward into really a culture of enterprise risk management where we integrate all of these things, hazard, operational, strategic, and financial risk management, which is broader basically than just looking at cost schedule for design and build, but going further than that. And looking at organizational things like that.

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RISK MANAGER TAPPING: So risk is not a four letter word. It is a four letter word, but it can be good.

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RISK MANAGER TAPPING: There you have it. Any questions?

CHAIRPERSON RICHARD: Questions? Colleagues? Mr. Hartnett.

BOARD MEMBER HARTNETT: Yes, it's really more of a comment than a question.

On page seven, the value of risk management, the opening

sentence, transparency, Legislature and stakeholders. I think the Board needs to be specifically called out on that. Ultimately, that the risk management on the big issues falls within our responsibility. And I think it's something that structurally that the staff needs to be sensitive to in a sense of what needs to come to our attention, specifically as risk -- the management changes. The risk manager has a specific responsibility and reports to the CEO, who reports to us. And in terms of the lines of accountability, we need to hold the CEO accountable for the managing of the significant risk. And I think we need to emphasize that in terms of accountability.

And so that I know there are mechanisms to report to the Audit Committee, which is an instrument of the Board. But ultimately, it's the Board's responsibility to hold the CEO accountable through the chain of command.

I just really want to emphasize that it's a very serious responsibility, which we need to have information brought to our attention when it's needed and appropriate so that we can give the appropriate policy direction whenever it's needed.

CHAIRPERSON RICHARD: Thank you. That is a very apt comment. Thank you for making that.

And other comments?

VICE CHAIRPERSON SCHENK: Yeah.

CHAIRPERSON RICHARD: Vice Chair.

VICE CHAIRPERSON SCHENK: Well, I echo, ditto, and

underscore what the Authority Member Hartnett just said. We started out here, believe it or not, without any risk management oversight whatsoever, which is just appalling and without an Audit Committee. And we've come such a long way. And this is comforting in many respects. But it is extraordinarily important that we, as the Board, exercise our responsibility in risk oversight, both through the Audit Committee and then directly through management.

One of the items that you already touched on is the sense sometimes that risk management is just sort of another burden and that folks don't have to really deal with it. It's so important that they -- not only that they buy in, that they understand. And that it really be built not just from the top down but from the bottom up, because that is the only way that we're going to get the expertise involved.

So pleased to see your approach on this and your attitude about it. So thank you.

CHAIRPERSON RICHARD: One thing Mr. Morales mentioned to me as an aside was that he's bringing Mr. Tapping into more a broader array of the normal management discussions. So I think that goes right to the point that you're raising.

Mr. Rossi.

BOARD MEMBER ROSSI: We ought to have a regular report on risk mitigation at the Board level or at the Audit Committee, whatever the Board deems appropriate. But we ought to see -- we

ought to see a plan at the beginning of the year and then we ought to see a quarterly update of that plan to see whether or not those items that have not been addressed are being addressed, reports are being done, that whatever exceptions have been done have been addressed, or are being addressed.

CHAIRPERSON RICHARD: Jeff, if you're okay with that, we should just institute that.

I think that goes also to what Lynn Schenk was saying, the Board responsibilities here which we take very, very seriously. A lot of this I think works well if the staff has an expectation about how this is going to happen and then it's done through a regular mechanism as has been suggested here.

CHIEF EXECUTIVE OFFICER MORALES: I would point out also in addition to that, we have twice a year a reporting requirement to the Legislature that includes an update of risk assessment and risk management work. So that is every six months, once we're underway and we can make regular reporting to the Board as well.

VICE CHAIRPERSON SCHENK: Prior to that, that could be a step prior to the report that we get it and we --

CHIEF EXECUTIVE OFFICER MORALES: Right.

VICE CHAIRPERSON SCHENK: Thank you.

RISK MANAGER TAPPING: One of the provisions of our updated risk management plan is to do quarterly reporting. And one of the challenges is to role it into all the other reporting in the most efficient way. So we have been thinking about that.

CHAIRPERSON RICHARD: Good.

Any other questions or comments?

Well, I'll just end by saying I took to heart your chart on the flaw of averages. And since you came off a very successful tour with the Bay Bridge project, while a 500 percent batting average may get you into the hall of frame if you're a baseball player, I don't think we're going to accept that at this point.

Thank you very much for that comprehensive presentation. We appreciate it and appreciate your joining the Authority and your work. Thank you.

The next item is an action item. It's request for approval of agreement -- excuse me -- the presentation on environmental mitigation implementation. Mr. McLoughlin.

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Good morning, Mr. Chair and Board members.

CHAIRPERSON RICHARD: I wasn't short changing you.

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Mark McLoughlin, Interim Deputy Director of Environmental Planning.

I want to let you know I think the first week that John was at the Authority I planted myself in his chair, and we talked about this subject, mitigation, and how he can help us evaluate what we need to do how to provide the highest value that we can.

CHAIRPERSON RICHARD: Before you start, since this is a presentation about these environmental issues, can we welcome --

I think we have the director of the Department of Conservation.  
Good morning. Go ahead.

(Thereupon an overhead presentation was  
presented as follows.)

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: This presentation  
is an information item. It's a high level briefing of the  
approach to mitigation as the Authority starts to put together  
our program for mitigation.

I was lucky to be in Fresno on May 3rd when the Board  
certified the Merced to Fresno high speed rail train project for  
the EIR/EIS for this first section of the train. So these  
mitigation measures included opportunities to avoid, reduce, and  
minimize adverse environmental impacts associated with the future  
construction and operation of the train.

This item we will summarize for you implementing the  
mitigation measures, our project benefits, and also we've been  
working with and will talk about existing State agencies  
currently in the past to move forward with our permitting and  
mitigation obligations. So with that --

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: -- this is a  
subject that's exciting to me and exciting as we get forward  
towards our first construction package in mitigation.

And one of the things we want to take a look at in  
mitigation and our vision of that is to provide the highest

ecological value, the highest agricultural value as you see on the next item, Item 5 on the agenda, that we can as a result of the project.

And I'll not only provide regional benefits, but of further reaching statewide benefits. And that's how we're looking at the project, not section by section, but overall the whole section of the train.

So some of the regional benefits. We'll have increased transportation options, of which we'll provide less reliance on the car and the auto. Air quality will improve. We'll have energy savings and provide economic growth with jobs and the synergy that it relates to the train.

Some of the impacts will have nearly specifically to high speed rail stations include we'll have emissions from construction equipment, conversion of agricultural land, and non-agricultural use, and the loss of biological habitat.

So through the design of the project, we've looked at features that can we avoid and reduce and minimize through the initial design, avoiding specifically more importantly biological impacts on the ground and other items.

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: So these design features have allowed us to avoid and minimize our impacts, not only from the operation of the train, but also with our permitting requirements and our resource agencies looking at our



footprints of the train for Merced to Fresno.

We did a quite arduous exercise with them in getting to our preferred alignment of reducing impacts for Merced to Fresno.

The other thing is there is enhancements for the project. We're trying to provide those that meet again regional and larger environmental objectives.

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Some of the sample design features on our approach to mitigation -- and again we're starting to put this together as it relates to specifically focus for CP1 and beyond that package for Merced/Fresno and also looking at wholistically for Fresno/Bakersfield in the Central Valley.

Some of the sample design features we'll have will protect public roadways and existing infrastructure of railroads during construction. A lot of it has to do with construction practices during construction to reduce existing dust emissions in that, specifically in the San Joaquin Valley, looking at the funding research on wind and noise effects of the train, and also on the importantly agricultural activities

CHAIRPERSON RICHARD: Before you go on, Mr. Rossi had a question.

BOARD MEMBER ROSSI: I've read this. And this is a list of things that you're talking about doing, examples there. I would be more interested in knowing what it is that we aren't

doing or that people are concerned about that we aren't doing to mitigate these types of risks. The listing of what we're doing is pretty easy. Are these addressing the vast majority of issues that neighborhoods and communities have? And if they aren't, what is it they aren't addressing?

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Okay. That's a good question.

CHAIRPERSON RICHARD: Can I ask you to speak closer into the mike?

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: I will.

CHAIRPERSON RICHARD: Thanks.

CHIEF EXECUTIVE OFFICER MORALES: If I could jump in.

The intent certainly is to do everything we can to, first, avoid impacts and then to minimize, mitigate, and even enhance on the other end of the spectrum.

I wouldn't want to suggest -- I think based on public comment we know there are people who are not satisfied with what is being proposed. Some of that is a function of an alignment. A given alignment will have certain impacts on certain areas, and there is only so much you can mitigate or avoid at some point.

But our intent is to certainly again push the envelope in this agreement that this presentation is really to set the ground for the agreement that the Board is being asked to approve subsequent to this with the Department of Conservation to really show them we are our goal and our efforts are to try to really

make this a showcase project in terms of what we are doing to mitigate and trying to, in effect, leave a better situation than when we entered.

BOARD MEMBER ROSSI: Fair enough.

When you read this, and then you read the next -- the written request for approval, I have no idea whether or not it is a showcase program, right? Because there are no comparatives. This is just a listing of things we're doing. I don't know -- and I'm going to assume because I have immense faith in the CEO and the management of the Authority that we are hopefully cutting edge operation.

But as a director, I can't tell that from this. What I'm being told here is a litany of things we're doing. I don't know if it mitigates 100 percent, 80 percent, 90 percent, how it looks compared to other types of organizations that do similar things. I'm trying to bracket this from the perspective of understanding how we fit in the plan of performance when it comes to this type of risk management.

CHIEF EXECUTIVE OFFICER MORALES: Much of the mitigation strategy is dictated by regulation and law, and on both ends. There are certain minimum standards that have to be met in order to mitigate and get the necessary approvals to go forward.

There are also limits on what can be done. Because at some point, for instance, we could propose to do something that would constitute in effect a gift of public funds if we are going

above and beyond what would be deemed appropriate. So what we're doing is we have to work within that zone of that.

What I can tell you is -- and I think having the Director of Conservation can talk to some about the type of program we have and how it compares to others. Our base line is we're starting above the base line. Our goal is to not just do the minimum needed to get by. We're working with all of our regulatory agencies to get beyond it.

One of the ways we're doing that is now with having received comments from affected communities, we're going through the process of sitting down with them and looking at additional things that can be done to provide greater mitigation or avoidance or betterment in some cases.

CHAIRPERSON RICHARD: Mr. Hartnett.

BOARD MEMBER HARTNETT: Further to that discussion, I appreciate actually the samples, design features, and the other things being listed here as illustrative, and there are things from the many environmental impact reports that have been certified that I've experienced over the years. These are things -- for the most part, these are things I would expect for any project of any size. And there are obviously some unique to what we're doing and also the breadth of what we're doing.

To me, I think the things to point out that are different are the ones that are important to me. And some are different because of the nature of a project, and some are

different because of the size of our project. And for example, a couple things come to mind. Funding research on the wind and noise effects of high speed rail operations on agricultural activities. That's something that you don't normally find, you know. Things like that that are specific to both our project and the communities. Preserving the total amount of farmland, that's pretty significant. And in the next agenda item, we have some action items related to that. Those are the kind of things that I think are important for us to point out.

A really big one, source renewable energy for traction power and facility operation from California-based renewable energy producers. Holy cow, I mean, that's a really big deal. I'd like to know more about that, not for purposes of this report today.

But those are the kinds of things that are I think are really significant and that we need to know a little bit more about and to track a little bit more.

CHIEF EXECUTIVE OFFICER MORALES: If I could just -- an example of where we're looking to go above and beyond just the basic regulatory requirements on dealing with farmland. And that's been an area that's been received a lot of attention what the impact of the project would be on farmland.

In round numbers, over the entire valley will impact 5,000 acres. Our regulatory obligation and our commitment is the replace that on a one-for-one basis.

It's interesting to note and worth noting that 5,000 acres compares to approximately 115,000 that have been lost over the last decade to development in the valley. So we're a small percentage, but recognize that is a very real impact nonetheless.

The agreement that we have come to and are asking the Board to approve with the Department of Conservation is to ensure that our one-for-one replacement is not just us going out and picking up some land. But in fact, having the agency who's best able to do that ensure that we're getting the best highest value, best quality land that can also be managed in perpetuity by someone who knows how to do that. So we're meeting the minimum regulatory, but we're going above and beyond in terms of quality and the longevity of that commitment.

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: I can comment on that, too, is that we, at the Authority, will be heavily involved with the Department of Conservation in that agreement on the selection and how and when and where those lands will be. So we're going to be a partner with them in that -- if we can skip to the next item just briefly on how we're going to approach that program.

And to address Mr. Rossi's question, Mr. Morales has made it very clear in the time he's been here we are very clear in meeting with people, meeting with local constituents, those cities and counties and people on the ground that the project affects. So we have met with them. And I personally have gone

down to Fresno and Bakersfield a couple weeks ago, met with different people, saw the issues that were there. So Mr. Morales is very focused on what you just asked for, Mr. Rossi, and bringing up those other items that may not fit the box, so to speak, of the EIR and how we can address those.

CHAIRPERSON RICHARD: Okay. Why don't you hit the things that continue on your presentation. And you're a soft-spoken guy, so just want to make sure that people listening at home can follow.

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: I'll boom here.

So we covered a lot of ground here on these recent conversations. We'll move to the next slide here.

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: One thing that's very important on the mitigation measures is property access, especially as it relates to agriculture. That's the number one topic as we go through these communities and the valley.

With agriculture, what happens, how can I get across to the other side of my property if we're bisecting it. How far do I have to drive my farm equipment? And if you have providing X crossings, what does that look like and how does that work in the agricultural perspective of the operation?

There's opportunities to improve local intersections for traffic operations specifically in those cities that we encounter Fresno, for one, is a strong example of that, and Merced.

One of the things it's important, too, from the construction is the construction is coming around the corner. And again, I'm excited about that, as construction will change the conversation of the project very quickly and faster than we think. When equipment shows up, how will we affect those communities where we're at, the operations, and the duration of how we're going to work in those communities to not disrupt them in any way.

And we've also set up an agreement with the San Joaquin Air District with a VERA agreement, or a voluntary emission reduction agreement, to focus in on that construction component which will reduce emissions in that region.

Again, we touched on the important farmland. We'll have extensive monitoring, which will be required by the agencies -- resource agencies during construction as it relates to biological resources, those in and around those preserve areas, such as San Joaquin River, Camp Pashayan is a large focus there and a main target for any issues we may have biologically.

Part of that is we have to provide, of course, a restoration and revegetation plan from the disturbance of construction as we go through the alignment.

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Again, I think you touched on these higher profile, high level impact pieces as far as the renewable energy.



Recycled materials will be another function the contractor will be provided to do during construction. Recycled materials for his -- not only during construction, but then as to what he does with them, where they go and what they do.

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Some of the enhancement that we've talked about is we have -- there is some strong planning on the other side of the house on station location, planning for in and around those areas for that existing station, and the periphery transportation facilities and infrastructure to get to our stations.

One of the large topics is water right now and storm water runoff and providing for the treatment of that water within our alignment and our stations.

Water quality is going to be a large component, especially when the operation of the train is ongoing. We're talking with the State Water Board right now about how we can operate the train and meet their requirements.

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: One other things Jeff talked about or Mr. Morales talked about today is interagency agreements and the first one we're going to talk about is Department of Conservation.

Again, for Merced/Fresno plus or minus 1,400 acres. CP1 will comprise about 310 acres for that first section. Again, we

talked about San Joaquin Valley Air Pollution Control District and the VERA agreement.

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Also we have existing agreements currently with the Army Corps. of Engineers, Fish and Game, Fish and Wildlife. So these will be ongoing agreements that we have as we go through our permitting process and our checkpoint process with them to ensure that we're achieving what we need to do for our preferred alignments and also the subject of habitat mitigation which actually has a very high level of focus right now. The agencies are very focused on how we're going to mitigate, where, and the value of.

So, again on that subject, we're looking valley wide at that where the strategic pieces of property with the highest value ecologically, ones the agencies prefer, and ones that provide linkages to other areas such as critical habitat.

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INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Again, mention the State Water Resources Control Board. We met with them last week. We're getting close to making agreement with them that will allow us to work with them and provide personnel to manage our 401 and 402 permits for the State Water Board. We've been asked to go at that level at the State Board for our permits. So the idea is we will provide an infrastructure or framework for a statewide permit for the train. Not only for construction, but the

operation of the train once that happens.

Also another we've been working with the Central Valley Flood Protection Board as it relates to crossings that we have in the valley that they have purview over as it relates to flood control.

With that, I think we've covered some ground here. Again, next steps, we're just talking at this higher level right now. We're in the midst of providing these conversations on how we're going to mitigate, when we're going to do it. And to your question, Mr. Ross, what that entails.

Again, the next item we have is the Department of Conservation. And we'll be having more further agreements coming to you. So again, this is a higher level look at how we're going to approach mitigation. We're in the midst of it right now. And appreciate your questions that you had on it.

CHAIRPERSON RICHARD: Thank you.

Colleagues, any other questions for Mr. McLoughlin?

Yes, Mr. Umberg.

BOARD MEMBER UMBERG: Thank you for the presentation. I just have a general question.

I understand why we need to have MOUs with local governments, federal governments. But why do we need to have an MOU with another State agency? Aren't we all on the same team?

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: On State agencies, we have interagency agreements. Sometimes they're fairly

standard agreements, and they're not standard with each agency. Within those agreements, there will be MOUs with those. Sometimes MOU or Scope of Work depending the nature of that agency.

BOARD MEMBER UMBERG: So we sign an MOU with another State agency which obligates that State agency to provide certain resources.

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Resources to process our permit applications. They still remain their regulatory purview so to speak, but they're providing focused personnel to process our applications, walk through our processes with us, mitigation conversations. So we have attention on that. It is not unusual to have agreements for project proponents.

BOARD MEMBER UMBERG: Right. I guess I sort of understand, but it would seem like we should be able to have informal understandings with other -- I get why we need to have an MOU with the local agency, federal government. But among State agencies, do we not have the sense we're all on the same team?

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: No, we do.

VICE CHAIRPERSON SCHENK: How naive you are.

BOARD MEMBER UMBERG: So we need to call the Governor every day and say, hey guys, play together.

CHIEF EXECUTIVE OFFICER MORALES: If I could, Mr. Umberg.

We work with a variety of State agencies on a daily basis and do so just as part of normal business. In a case like this -- and specifically there is a discrete and unusual -- I wouldn't say unusual -- separate activity that is the basis for this MOU, which includes the exchange of dollars also. And then some ongoing responsibilities by the Department of Conservation on our behalf. So that this MOU is not governed -- we have 99 percent of our interaction with the Department of Conservation go on just as part of state business. This is a very discrete activity that is the subject of the MOU.

BOARD MEMBER UMBERG: Thank you.

VICE CHAIRPERSON SCHENK: And it's not at all unusual for the way agencies even in the executive branch do business with one another just so everything is clearly understood. It's not unusual.

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: Right.

CHIEF EXECUTIVE OFFICER MORALES: I would just say we have -- we're seeing tremendous teamwork and sense of cooperation and coordination among our partner agencies across the state.

INTERIM DEPUTY DIRECTOR MC LOUGHLIN: And I'll add one thing to that. From a resource agency perspective, it's not just the State agencies we're working with. It's the federal agencies, Corps. of Engineers, Fish and Wildlife and others, EPA. We're forcing everybody to work together, especially the resource agencies where you have common interests, say, Fish and

Wildlife/Fish and Game common interest where it relates to endangered species. We're working very closely with them that we can answer their concerns and issues.

CHAIRPERSON RICHARD: Okay. I think Mr. Rossi.

BOARD MEMBER ROSSI: In looking at the -- if I'm ahead, just tell me to.

CHAIRPERSON RICHARD: This is leading up to the next item, so if you're looking at the next item that's appropriate.

BOARD MEMBER ROSSI: I'm looking at the interagency agreement with the Department of Conservation. Therefore, it is resolved. How does the number two, the 20 million authorization -- Jeff, how does that -- is that in our budget?

CHIEF EXECUTIVE OFFICER MORALES: Yes. Mitigation is built into the construction budget as a percentage of it and then -- so this is part of that. It is not on top of estimates as part of it.

CHAIRPERSON RICHARD: We just assumed you would figure out whether it was or wasn't at an upcoming Finance Audit Committee meeting after we signed the agreement.

BOARD MEMBER ROSSI: We no longer operate that way. Now we do it ahead of time.

CHAIRPERSON RICHARD: That's good. Okay. Thank you very much. I think that's great.

So now we Item 5 in front of us, which is the agreement. And colleagues, I've been asked to do something that

takes something out of order here, which is that we had the public comment period and the public comment period is closed. But we did have a request from the Merced County Farm Bureau to speak on this item. And because of the importance of their interests here, I'm going to go ahead and allow that. So Amanda Carvajal -- how did I do with that?

MS. CARVAJAL: Yes.

CHAIRPERSON RICHARD: Right. You've appeared before us before. Welcome back. And I know we are interested in what you have to say.

MS. CARVAJAL: Just for clarification, when did the protocol change? Because as of May, it was based on the agenda item -- we were supposed to speak on the agenda items when it's specific to that nature.

CHAIRPERSON RICHARD: I don't recall the May meeting. But in general, if you look back at all of our agendas over the year, we take all of public comment ahead of time. That's how it's agendized. I think because we had some specific things in that one meeting we -- I think we had some separate comments.

MS. CARVAJAL: It also mentions it in the agenda item you will take comments based on the agenda item. That was protocol. I've been dealing with this the past three years. I figured that was how we were going.

CHAIRPERSON RICHARD: I didn't think we had changed anything. You're here now.

MS. CARVAJAL: I just want to make sure for future reference.

CHAIRPERSON RICHARD: I think for future reference what we try to do is have the public comment periods at the beginning for any and all agenda items. So what we'll do is take a look at how we convey that to the public, make sure it's doubly clear. Anyway, welcome.

MS. CARVAJAL: Thank you. I appreciate your time Chairman, Board members.

Again, my name is Amanda Carvajal. I'm the Executive Director of Merced County Farm Bureau. It's been awhile since I've come before you. There is a few points on this issue we want to bring up.

I'm going to read verbatim because it's kind of technical.

On the Merced to Fresno EIR, it did not explain the criteria used to determine whether thousands of severed parcels were unusable or usable, for that matter, nor did it identify those severed parcels counted or not counted towards the impacted acreage. Thus, the results of the impact analysis for ag impacts were unsupported again in the EIR/EIS.

We believe the Authority likely underestimated the impacts to ag lands and that mitigation is required for many more acres of directly impacted ag lands the EIR has acknowledged.

Mitigation measures and agreements with the Department



of Conservation should require targeting ag lands that are at risk of conservation due to urban sprawl by the high speed rail project.

Ag mitigation measure number one in the staff report and the draft resolution are silent on this matter. Specifically, this comment is consistent with the EPA's May 1st, 2012, comment letter. Similarly, targeting these at-risk land areas would likely involve establishing conservation easements on land closer to urban areas which cost more than estimated similar easements on more remote ag lands. So those surrounding the communities rather than further out, it's going to be more expensive.

The \$20 million budget for mitigating impacts to ag land is inadequate. As your reports states, only 2.5 of the budget will be used for acquiring easements for the CP1, which is 310 acres. This suggests estimated land acquisition costs will be about \$8,000 per acre, substantially lower than 25,000 per acre established cost the Authority staff has previously discussed.

Acquiring 310 acres at the higher cost estimate would amount to a require of approximately 7.75 million for CP1. The remaining \$16 million would be used to acquire ag conservation easements to mitigation the Fresno to Bakersfield section impact to approximately 2100 almost 3,000 acres. This works out to an average cost of \$7,306 per acre, again substantially less than

the 25,000 per acre discussed in the an e-mail exchange Ken Jong and Peter Porter dated January 6, 2012.

Finally, we request that you include these comments and all of the materials related to this agenda item in the administrative record for the Fresno to Bakersfield section.

Thank you, again I appreciate your time.

CHAIRPERSON RICHARD: Certainly. Thank you.

And we had one more speaker request, but then I'm going to close the record. This is -- I want to give everybody an opportunity to make their points, but we do have an agenda that basically talks about public comments at the beginning. And are you Mr. Fredrickson?

MR. FREDRICKSON: Yes.

CHAIRPERSON RICHARD: When you're done, would you fill out one of these forms so we have that for the record?

MR. FREDRICKSON: Absolutely. Chairman Richard and members of the Board, thank you for the opportunity. Sorry to --

CHAIRPERSON RICHARD: It's okay.

MR. FREDRICKSON: -- bend your rules. This is my first time coming before you and the agenda -- that aside, I appreciate the opportunity. Just like to address a couple of quick points.

So I'm an environmental policy analyst with the California Farm Bureau federation, which is distinct organization. We're affiliated. We're the statewide organization. We have -- we're a confederation of county farm

bureaus throughout the state. But we're a separate organization at the State level. So our interests are a little different. We're not a party to the litigation.

So I wanted -- but we are very interested in this item. And so that's why I wanted to appear before you and just offer a couple of comments. You know, we have been involved commenting on the environmental documents. Some particular concerns that we've had have been focused on avoiding impacts to farm land obviously, alignments. And also we're quite concerned about growth inducement and the potential for growth inducement. And we have some issues some uneasiness with the way the environmental document have dealt with the potential for growth inducement in our view.

So as far as -- I guess first off, I'd like to say thank you for attempting to grapple with the issue of ag mitigation. And also that we're familiar with the California Farmland Conservancy Program. The Department of Conservation is -- we would consider them a partner. We work with on lots of issues from Williamson Act to the Farmland Mapping Program and so forth.

And we also approve of or were supportive of the easements as one way as part of a broader suite of mitigation measures to compensate for impacts on agriculture. So I'd just like to say we're supportive of all that. And we see it as positive.

On the other hand, on this particular thing, I think we would have liked to have seen, given the importance of the issue and the controversy and the Farm Bureau in this issue I think we would have liked to have seen more outreach in the roll-out of this approach. And certainly going forward, I think we would like to see a little more transparency, outreach to the public, particularly in terms of reporting and accounting and the actual implementation of the measure.

I have a number of questions having reviewed the limited materials that were provided, having read back through the statute that establishes the conservancy program. And if it's -- with your indulgence, if I could sort of submit on a staff level questions some of those concerns in writing, I could do that by the end of the day.

CHAIRPERSON RICHARD: Okay.

MR. FREDRICKSON: But beyond that, just a couple of overarching concerns or points that I'd like to --

CHAIRPERSON RICHARD: If you could ask you to be very quick about this. We give people about three minutes.

MR. FREDRICKSON: Absolutely.

I think we agree that with the Merced County Farm Bureau that \$20 million is very, very little money for five years from Bakersfield to San Jose. It just sounds very inadequate. And 2.5 million for Merced to Fresno sounds even more inadequate.

We have some concerns about the acreage and whether

they line up with what's in the environmental document. We have some questions about land values and the assumptions that are embedded in that.

And also on the ag mitigation measure number one and the easements, it addresses the direct footprint impacts of the project. It doesn't address indirect, cumulative, potential growth inducing impacts. However, I think there may be an opportunity here because if you read the statute and the overview on the California Department of Bureau Conservancy Program, one of the particular focus of that program is farmland conservation on the urban edges. And so I think that if it were -- if this were undertaken in a more robust way as part of a regional strategy, working with cities, counties, regional efforts like the San Joaquin Valley partnership and so forth, I think that could put some more teeth into the assumption that there aren't going to be significant growth-inducing impacts.

CHAIRPERSON RICHARD: Mr. Fredrickson, let me stop you here for two reasons. Number one, because we try to give people the equal amount of time.

But let me say two things. One, I think this agreement that is going to be before my colleagues in a moment is, depending on how the Board moves forward, is but one of a number of initiatives that we're trying to take to deal with these issues, land conservation, impacts on agriculture, offsetting. So I think this is going to be a living process that goes beyond

this one agreement.

You're raising a number of issues that I think are very good in terms of how we should be doing outreach and so forth. What I'd like to do is urge you to sit down with our staff. We would like to have a very strong relationship with the State's agricultural representative organizations, of which I'm very aware of the differences between the local farm bureaus and the State Farm Bureaus.

So if we can move forward with that, I think that we'd like it to be the first part of an ongoing dialogue, not only with your organization and other agricultural organizations, but certainly with our sister agencies in the State.

So we take your comments to heart, but I want you to understand I think this is the first step in a broader initiative that we are undertaking to try to address the impacts of high speed rail on agriculture, both negative and potentially positive.

MR. FREDRICKSON: Great. Thank you.

CHAIRPERSON RICHARD: And if you would, please give my regards to my friend Paul Winger.

MR. FREDRICKSON: I'll do that.

CHAIRPERSON RICHARD: Okay. Thanks. Okay. Members. Then we have Item 5 in front of us at this point.

BOARD MEMBER ROSSI: So moved.

CHAIRPERSON RICHARD: Mr. Nechodom, did you want to make

any comments to this Board other than good morning? Mark.

MR. NECHODOM: Good morning, thank you, Mr. Chair, members.

I won't take up any more of your time on the agenda. I will simply state for the record the Department is very enthusiastic about working with you. We're very much aware of some of the issues that have been raised before the Board this morning. And we expect to work with you and your staff and our staff in looking at these issues of cumulative impact and sufficient mitigation.

CHAIRPERSON RICHARD: Thanks very much.

Mr. Umberg.

BOARD MEMBER UMBERG: As a longstanding advocate of interagency MOUs, I'll move the issue.

BOARD MEMBER HARTNETT: Second.

CHAIRPERSON RICHARD: It's been moved by our longstanding advocate of interagency agreements.

BOARD MEMBER ROSSI: Second.

CHAIRPERSON RICHARD: And seconded by Mr. Rossi.  
Please call the roll.

BOARD CLERK REED: Vice Chair Schenk?

VICE CHAIRPERSON SCHENK: Yes.

CHAIRPERSON RICHARD: Vice Chair Richards?

VICE CHAIRPERSON RICHARDS: Yes.

BOARD CLERK REED: Mr. Umberg?

BOARD MEMBER UMBERG: Yes.

BOARD CLERK REED: Mr. Hartnett?

BOARD MEMBER HARTNETT: Yes.

BOARD CLERK REED: Mr. Rossi?

BOARD MEMBER ROSSI: Yes.

BOARD CLERK REED: Chairman Richard.

CHAIRPERSON RICHARD: Yes.

Thank you very much. And thanks to everybody for their work on this.

As I said, this is an evolving program that we have. We'll turn now to our CEO, Mr. Morales for his comments.

CHIEF EXECUTIVE OFFICER MORALES: In the spirit of advocacy for MOUs, I wanted to provide a brief update on several MOUs.

As you know, we have a number of Memorandum of Understanding at different levels throughout the State, and we have some recent activities on some of those and some updates.

One of them is with the Peninsula Joint Powers Board, or Cal Train. We have an existing Memorandum of Understanding that dates to 2009. Obviously, the changes that the Board has adopted over the last year with the adoption of the blended approach changes the nature of the relationship there. We are beginning our work with the Joint Powers Board to update and replace the existing MOU with a new one. Expect to come before this Board in December with a draft and maybe some discussion items and then



hopefully present a new memorandum in January for your consideration and updates and takes into account the new direction.

We are also beginning discussions with the LOSAN Board regarding the Governor signed a bill that would allow for the transport of LOSAN corridor to a Joint Powers Authority about. They are developing a memorandum among all of the participating agencies. High Speed Rail Authority is an ex officio member of that. So we expect to come forward with a memorandum there.

And then thirdly, and I go back to Mr. Umberg, the Southern California Memorandum of Understanding we had action on it recently with the city of Anaheim, which has signed onto the memorandum along with the county agencies throughout Southern California. Mr. Umberg presented it to the City Council prior to their adoption. I don't know if you want to say anything about that. Thank you for your efforts on that.

That's a very positive step forward regarding our activities and our abilities to make improvements in the Los Angeles/Anaheim corridor.

Finally, we have a agreement with the Minority Business Development Agency and the Department of Commerce a non-cost item, just a commitment on their part to help us achieve our small business goals through various outreach activities.

CHAIRPERSON RICHARD: All good. Any other questions or comments from members of the Board for Mr. Morales?

Okay. With that, the Board will enter into closed session. Where is the closed session?

BOARD CLERK REED: In Room 113.

CHAIRPERSON RICHARD: Okay. We'll be in room 113 to discuss items as per the agenda. And then we will reconvene here to report on the outcome of that. Thank you very much.

(Where upon the Board adjourned into closed session from 12:30 PM to 1:29 PM)

CHAIRPERSON RICHARD: Coming back from adjournment from the closed session, there are no items to report out of the closed session. So this meeting of the High Speed Rail Authority is now adjourned. Thank you.

(Whereupon the High Speed Rail Authority Board meeting recessed at 1:29 PM)

CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of November, 2012.

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TIFFANY C. KRAFT, CSR, RPR  
Certified Shorthand Reporter  
License No. 12277